

Legal Doc

OGC Has Reviewed

15 August 1947

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MEMORANDUM TO CHIEF PERSONNEL DIVISION, OSO

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Subject: [REDACTED] papers pertaining to

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1. We are forwarding to you papers pertaining to [REDACTED], a recent overseas returnee. Included are a letter dated August 11, 1947, from Mr. [REDACTED] and a report of physical examination also dated August 11.

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2. The circumstances of this case are known to your office but pertinent points are reviewed here:

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(a) Mr. [REDACTED] went overseas with a physical defect of which he knew, but which he did not call to the attention of the Government. He was assigned to [REDACTED] which is well known as one of the least healthful posts in the world, particularly in connection with digestive ills. [REDACTED] soon reported sick and was ordered to [REDACTED] for examination. The doctor in [REDACTED] reported that he observed physical defects in the digestive tract but nothing pathological which would affect normal functions. [REDACTED] was then given the choice of returning to his post, or of returning to the States at his own expense and was informed that in the case of return here he would be required by the provisions of Public Law 800 to refund to the Government, the cost of his transportation to his overseas post. He was also told that the question of his illness would be reviewed for possible reference to the Employees' Compensation Bureau. Upon his return, [REDACTED] accepted the charges for his return as personal, but requested a review of his case to relieve him of repayment for the costs to [REDACTED].

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(b) Accordingly, he was directed to report for a physical examination to the Medical Section. You will note that in [REDACTED] interpretation he states the case should not be dismissed as being normal or as psychosomatic in origin. He then states that it is possible that the diarrhea could be psychosomatic, but that this would remain to be proved. [REDACTED] did not know where [REDACTED] had been stationed or about the living conditions at his post. I discussed this with Major [REDACTED] and he agreed that if the living conditions at [REDACTED] are as difficult as reported, the chances of the diarrhea being psychosomatic in origin were reduced in proportion to hardship. All circumstances taken together therefore, indicate that the illness at post was caused by living conditions imposed on a physical defect which would not normally impair the health of the individual.

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(c) The point thus raised is important in considering the application under Public Law 600, which provides that in the event an employee violates the 12-months agreement, his expenses both ways will be a debt due to the United States. The agreement, as set forth in the law, is to remain in the Government service for 12 months, unless separated for reasons beyond his control. An effort has been made to discover an authoritative interpretation of the language "separated for reasons beyond his control." It is believed that no such interpretation has been made. We are unable, for security reasons, to process this case to the officials who would normally rule on such a matter and must handle it internally.

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3. [redacted] was at fault in concealing his defect, which if known, should have prevented his assignment to such a post as [redacted]. It would not, necessarily however, have prevented his assignment to some other overseas post. When the condition became critical, he was put on notice of alternatives and made his choice to come home at his own expense. There can, therefore, be no question of the return costs. In our opinion, however, this was not the type of case contemplated by Congress in enacting Public Law 600. That Act apparently was designed to prevent individuals applying for Government employment to an overseas post at Government expense, and then leaving within a short time to undertake private interests or otherwise requesting transportation or transfer for personal reasons. In view of the lack of clear authority on this point, we believe it will not be appropriate in this case to apply the language of Public Law 600 to the extent that the expenses to the overseas post must be considered a debt due to the Government. It would be in order therefore, for you to write Mr. [redacted] in answer to his letter of August 11, and inform him that he will not be required to reimburse the Government for the expenses paid on his travel to his post overseas.

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LAWRENCE R. HOUSTON
General Counsel

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cc: Mr. [redacted]
Mr. [redacted]

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